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C O N F I D E N T I A L SECTION 01 OF 02 ABUJA 000109

SIPDIS  
STATE FOR AF/FO, AF/W, AF/RSA, DRL, INR/AA  
AMEMBASSY YAOUNDE PASS TO AMEMBASSY MALABO

E.O. 12958: DECL: 2020/01/28  
TAGS: [PREL](#) [PGOV](#) [PINR](#) [NI](#)  
SUBJECT: JUDICIAL, LEGISLATIVE, AND EXECUTIVE BRANCHES TUSSELE OVER  
PRESIDENT YAR'ADUA'S STATUS

REF: ABUJA 99 AND PREVIOUS

CLASSIFIED BY: James P. McNulty, Political Counselor, U.S. Embassy  
Abuja, Political Section; REASON: 1.4(B), (D)

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SUMMARY  
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¶1. (C) The Senate demanded January 27 that the President submit a letter informing the legislature of his "medical leave" from office, in the wake of a High Court Judge's ruling that the Federal Executive Council (FEC) had 14 days in which to decide whether ailing President Yar'Adua remained fit to continue in office. The FEC declared that same day that the President had not become "permanently incapacitated" and, therefore, remained fit to exercise his Presidential duties, despite his absence from the country and public view for more than two months. Pressures mounted on the FEC to resolve the current impasse, and rumors persist of an imminent return by Yar'Adua aboard a specially-equipped presidential aircraft. END SUMMARY.

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HIGH COURT JUDGE SETS DEADLINE  
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¶2. (SBU) Abuja High Court Judge Dan Abutu had decreed January 22 a 14-day deadline for the FEC to determine the ability of President Yar'Adua to exercise his presidential duties. This order came on the heels of his earlier ruling that Vice President Goodluck Jonathan could exercise presidential duties, but not as Acting President until he received a hand-over letter from the President.

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SENATE DEMANDS LETTER OF VACATION FROM PRESIDENT  
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13. (SBU) After two days of intense debate behind closed doors, the 109-member Senate decreed that Yar'Adua should notify them via letter of his "medical leave" from office, in compliance with Section 145 of the Constitution, resulting in a formal hand-over of powers to his deputy. The Senators embarked on this debate after convoking Secretary to the Government of the Federation (SGF) Mahmud Yayale Ahmed to the Senate last week to brief them on the President's health. He admitted that he had not seen the President since before his November 23 departure for Saudi Arabia for medical treatment. Senators approved the non-binding resolution after some 80 members signed on to an internal petition calling for the formal designation of Vice President Jonathan as Acting President.

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FEC DECLARES YAR'ADUA FIT FOR DUTY  
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14. (SBU) The FEC, meanwhile, announced January 27 that President Yar'Adua was "not incapable" of exercising his presidential duties, despite his more-than-two-months absence from the country. FEC members argued that Yar'Adua's medical treatment outside the country did not constitute "incapacity." In briefing reporters

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after the meeting, Justice Minister and Attorney General Michael Aondoakaa insisted that only Yar'Adua could exercise the discretion to hand over his powers to the Vice President.

15. (C) SGF Ahmed, who serves as the Executive Officer of the Council, informed the Ambassador the evening of January 27 that FEC members had "reached a consensus" that Yar'Adua remained "fit to serve" and had not become incapacitated. Kwara Governor Bukola Saraki, while not an FEC member, told the Ambassador separately January 27 that he had heard also that the FEC had reached "consensus" in this case. He said a formal vote by the 42-member FEC would have required 28 Ministers to vote in favor of a resolution, which, in his view, would be highly unlikely to happen.

16. (C) Speculation continued in the media and elsewhere that President Yar'Adua might return soon to Nigeria aboard his presidential aircraft, now reportedly sporting new medical equipment. A person associated with the security detail of the Presidential Villa told Regional Security Office Investigator January 28 that such a return may occur the evening of January 29 (which we doubt.) The press also reported behind-the-scenes jockeying by politicians within the ruling People's Democratic Party (PDP) to secure an early designation of a Northern politician as the party's presidential candidate in 2011 to short circuit a possible presidential run by Vice President Jonathan should he ascend to the Presidency.

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COMMENT  
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17. (C) The political impasse over Yar'Adua's absence continued as the respective branches of government argued over which official --

the ailing President or his deputy -- should formally control the reigns of power. To date, the elite have managed to muddle through under trying and confusing circumstances by engineering "work around" solutions typical of Nigerian governance during the President's two-month-plus absence. Yar'Adua's inner circle, for example, arranged a private, sick-bed "signing" of an important, supplemental budget bill to prevent its automatic veto. The outgoing Supreme Court Justice swore in his successor. Vice President Jonathan presided over Armed Forces Remembrance Day ceremonies January 15 -- the first instance in which the formal Commander-in-Chief failed to do the honors. He later ordered the deployment of troops to Jos to quell communal violence and followed up with an inspection tour of affected communities. Despite these measures, pressures continue to mount for those exercising power behind-the-scenes to provide greater clarity over who is really in charge. END COMMENT.

SANDERS